

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff, : Case No. 3:04-cr-130

- vs -

District Judge Walter Herbert Rice  
Magistrate Judge Michael R. Merz

RICHARD AUSTON,

Defendant. :

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**ORDER ADOPTING REPORT AND RECOMMENDATIONS**

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The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz (Doc. No. 381), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired on August 19, 2013, hereby ADOPTS said Report and Recommendations.

It is therefore ORDERED that Defendant's Motion to Reduce Sentence be DENIED. Because reasonable jurists would not disagree with this conclusion, Defendant is denied a certificate of appealability and the Court certifies to the Sixth Circuit that any appeal would be objectively frivolous.

August 29, 2013.



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Walter Herbert Rice  
United States District Judge